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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,068	08/21/2003	Peter M. Kowalik	2003CP4	6972
7590	12/10/2004		EXAMINER	
Charles M. Cleaveland, President Cleaveland/Price Inc. 14000 Route 993 Trafford, PA 15085				FISHMAN, MARINA
		ART UNIT		PAPER NUMBER
		2832		

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/645,068	Applicant(s) KOWALIK, PETER M.
	Examiner Marina Fishman	Art Unit 2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 August 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 3,4 and 15-19 is/are rejected.
7) Claim(s) 1,2 and 5-14 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: in line 2, "A base" should be changed to –a base--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 3, it is not clear if "an operating mechanism" recited in line 6, is the same as "an operating mechanism" recited in claim 1, line 4. If the operating mechanism recited in claim 3 is different than that recited in Claim 1, then the Applicant is required to re-define the operating mechanism in Claim 3.

Claim 3, lines 3 and 4, it is unclear what is meant by "arranged like those of the first mentioned switch".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 – 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Levi [US 5,293,012].

Levi, discloses a center break switch comprising:

- a pair of insulative supports [32] in parallel relation arranged for mutual rotation of a supported pair of contact blades [54, 62] and contacts [96, 122];
- a fulcrum mechanism [Figure 2], that provides prying action increasing leverage to overcome friction between the contacts during switch opening (the contact point between the element [56, 142, 144 and contact blades [fingers 122] changes during the opening operation, and one pair of fingers [say lower fingers 122] can act as the fulcrum for the upper set of fingers).

Regarding claim 16, Levi, discloses the interaction between the contact element [56] and contact fingers forms a pivot axis.

Regarding claim 17, Levi, discloses, the contacts are located in vertical plane [Figure 5] whereas the contact blades move in horizontal plane [Figure 2].

Regarding claims 18 and 19, Levi, discloses, the pair of members [56; lower fingers 122] is attached to pair of contact blades and is bolted to the blades [54, 62], hence is integral with the contact blades.

Allowable Subject Matter

7. Claim 1 is allowable, except for the objection stated above.
8. Claims 2 and 5 -14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 3 and 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach or suggest the combination of elements including "a pair of pry-bars, each attached to one of the blades proximate the contact and arranged with facing ends to work pivotally against each other."

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hodder et al. [US 5,061,833], Upton, Jr. [US 3,348,002], Roman et al. [US 4,795,869], Bagnagatti [US 2,835,756], Ransom [US 3,227,830], Killian et al. [US 4,244,825], Myer [US 3,627,939] and Bernatt [US 3,566,061] all disclose center break switch arrangement. Applicant also should consider these references in response to this office action. Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman
November 29, 2004


ELVIN ENAD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2832

12/7/04